

§ 272.21

46 CFR Ch. II (10–1–01 Edition)

(b) Comply with provisions of § 272.14(c)(1) with respect to repair specifications, or to make the vessel reasonably available for inspection before its next sailing; or

(c) Comply with any other requirement specified in this subpart B.

Subpart C—Eligibility Criteria for M&R Subsidy; Substantiation of M&R Expenses

§ 272.21 General eligibility criteria.

(a) *Eligible maintenance and repairs.* Costs of maintenance and repair are eligible for M&R subsidy participation if they are:

- (1) Performed on an Eligible Vessel;
- (2) Necessary, because of subsidized operation, for the M&R or replacement of damaged or worn parts of the vessel's hull, machinery, or Permanent Equipment;
- (3) Uncompensated by insurance;
- (4) Considered fair and reasonable by the Board;
- (5) Of Domestic Origin; and
- (6) Otherwise eligible in accordance with provisions of this part.

(b) *Off-subsidy survey items.* Any M&R contained in an executed off-subsidy survey report is eligible maintenance and repair if:

- (1) Paragraphs (a) (1) through (6) of this section are met;
- (2) The work is accomplished by the Operator before or during the next drydocking period (periodic or otherwise); and
- (3) The vessel is either owned by the same Operator who owned it at the time of the off-subsidy survey, or ownership was transferred to the Federal Government pursuant to section 510 of the Act (46 App. U.S.C. 1160).

(c) *Operator furnished items.* In addition to the general requirements of paragraph (a) of this section, the cost of the Operator's materials, supplies, or both, furnished by the Operator which are necessary to the performance of eligible M&R, is eligible for M&R subsidy if:

- (1) The items for which the cost was incurred are issued by the Operator from ship's inventory or the Operator's shoreside inventory, or are issued by direct purchase to the ship repair yard,

other independent contractor, or shore gang labor; and

(2) No subsidy, whether M&R or otherwise, has previously been paid for such material, supplies, or both; and

(3) The items are of Domestic Origin.

(d) *Costs associated with shore gang labor.* In addition to the general requirements of paragraph (a) of this section, the costs incurred with respect to the Operator's employment of U.S. shore gang labor necessary for the performance of eligible M&R are eligible for M&R subsidy participation only if such costs are:

(1) For direct labor charges;

(2) For eligible Spare Parts, as described in paragraph (e) of this section; or

(3) Incidental to the payment of wages for the direct labor, to the extent that such costs are required by State or Federal law or by collective bargaining agreements.

(e) *Spare parts.* Spare parts are eligible for M&R subsidy if they are:

(1) Necessary for eligible M&R;

(2) Issued by the Operator from the Operator's shoreside inventory or issued by direct purchase to a U.S. ship repair yard, U.S. independent contractor, or U.S. shore gang labor; and

(3) Placed aboard an Eligible Vessel, and

(4) Of Domestic Origin.

§ 272.22 Improvements and other similar work.

(a) *Eligible expenditures.* Any expenditure not in excess of \$200,000 for work effected during any one or a series of repair periods, which the Operator and MARAD consider to be an Improvement, is eligible for M&R subsidy if otherwise eligible for such subsidy pursuant to provisions of this Part.

(b) *Capital expenditures.* An expenditure in excess of \$200,000 for work effected during any one or a series of repair periods, which is not necessary for maintenance or repair shall be considered to be a capital expenditure, ineligible for M&R subsidy, except that work on an Eligible Vessel which the operator considers to be an Improvement is eligible for M&R subsidy if, before awarding this work:

- (1) The Operator submits a written request to the Director, Office of Ship

Operations, for consideration of the expenditures;

(2) The Director determines that the work is an Improvement and is technically acceptable; and

(3) The Associate Administrator for Maritime Aids approves M&R subsidy for the work, as appropriate, pursuant to the provisions of title VI of the Act.

(c) *Improvements performed in more than one repair period.* Whenever an Operator desires to spread the work incident to any Improvement over more than one repair period, the operator shall give written notice to the Director, Office of Ship Operations, prior to commencement of the work, as to the scope of work involved, expected benefits, the number of voyages over which the work will be spread and the estimated total cost. The operator shall report in the Subsidy Repair Summary (Form MA-140) the actual total cost of such work, covering the repair period in which it is finally completed, and shall attach a copy of the acknowledgment of such notification to the Form MA-140.

§ 272.23 Examples of ineligible expenses.

Expenses ineligible for M&R subsidy participation include, but are not limited to, the following examples:

(a) *Specialized improvements.* Any expenditure or Improvement required to alter, outfit or otherwise equip a vessel for its intended subsidized service which MARAD determines should have been performed before the initial entry of the vessel into subsidized service;

(b) *Convenience items.* Any expenditure for items that the Region Director determines to be aboard a ship only for the convenience of the Operator or crew members, and which are not considered integral parts of the vessel and are not required for seaworthiness, navigation or the health or well-being of the crew or passengers.

(c) *Unsupported expenses.* Any expense item which the Operator fails to substantiate adequately with documentation, as required by § 272.24.

(d) *Untimely requests for review.* Any disallowed expense item for which the Operator fails to make a timely request for review, as required by § 272.43.

(e) *Untimely appeals.* Any expense item disallowed in the final determination by the Director, Office of Ship Operations, for which the Operator fails to make a timely appeal to the Board, pursuant to § 272.43.

(f) *Absence of notice of multi-repair period Improvements.* Any expenses for an Improvement extending over more than one repair period in which the Operator did not notify the Director, Office of Ship Operations, as required by § 272.22(c).

(g) *Cargo expenses.* Any expense of special cargo fittings of a temporary nature, dunnage, ceiling, battens, the cleaning of cargo holds and tanks for cargo, the reading and certification of temperatures for refrigerated cargoes, and similar expenses.

(h) *Stevedore damage.* Any expense or any damage to the vessels or cargo gear directly attributable to a stevedore.

(i) *Rented equipment.* Any expense for the rental of Permanent or Expendable Equipment, such as compressors, paint floats, and other similar items for use by shore gangs or ship's crew on repair or other work, radar, radio telephones, and other similar items for use by ship's crew in ship operations.

(j) *Special requirements for trade routes.* Any expense for the initial installation of equipment necessary for the vessel's particular trade route, such as Suez Canal davits, which should have been installed before the entry of the vessel into the particular subsidized service.

(k) *General operating expenses.* Any expense for the loading of stores, the landing and sorting of laundry, pilot service, tug charges, removing surplus equipment to warehouses, and other similar expenses which do not involve actual maintenance and repair.

(l) *Items attributable to unsubsidized operations.* Any item of maintenance or repair that is clearly attributable to unsubsidized operation, including expenses noted in on-subsidy surveys for repairs which clearly should have been made before departure from the last United States port on the first voyage:

(1) In subsidized service, or

(2) Upon resumption of subsidized operation following temporary withdrawal.